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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BOARDS OF TRUSTEES FOR THE
OPERATING ENGINEERS HEALTH AND
WELFARE TRUST FUND, PENSION TRUST
FUND FOR OPERATING ENGINEERS,
PENSIONED OPERATING ENGINEERS
HEALTH AND WELFARE FUND, OPERATING
ENGINEERS VACATION AND HOLIDAY
TRUST FUND, NORTHERN CALIFORNIA
PREAPPRENTICE, APPRENTICE AND
JOURNEYMAN AFFIRMATIVE ACTION
TRAINING FUND, OPERATING ENGINEERS
CONTRACT ADMINISTRATION FUND FOR
NORTHERN CALIFORNIA, OPERATING
ENGINEERS INDUSTRY STABILIZATION
TRUST FUND AND OPERATING ENGINEERS
MARKET PRESERVATION TRUST FUND,

Plaintiffs,

v.

MORA CONSTRUCTION INC.,
a California corporation; and
MARK C. MORA, an individual,

Defendants.

Case No. 3:06cv3641 WHA

PLAINTIFFS' MOTION FOR
CONTINUANCE OF CASE
MANAGEMENT ORDER,
DECLARATION IN SUPPORT
THEREOF, AND PROPOSED
AMENDED CASE MANAGEMENT
ORDER

DATE: None Set
TIME: None Set
CRTRM: 9, 19th Floor

JUDGE: The Honorable
William H. Alsup

Plaintiffs in the above-titled action in default, seeking an order compelling an audit of defendant, request the court to continue the deadline for submission of a motion for default

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1 judgment, set at the September 14, 2006, case management conference in this case, from October
2 5, 2006, to December 7, 2006, due to a material change in the circumstances of the action.
3 Plaintiffs submit the following declaration in support of their request and proposed amended case
4 management order.

5 DATED: September 19, 2006 STANTON, KAY & WATSON, LLP
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7 By: /s/ Bruce K. Leigh
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Bruce K. Leigh
Attorneys For Plaintiffs

DECLARATION OF BRUCE K. LEIGH

I, BRUCE K. LEIGH, declare as follows:

1. I am an attorney at law licensed to practice before all courts of the State of
California and a member of the bar of this court.

2. I am one of the attorneys for the plaintiffs in this action, and I make this declaration
in support of the plaintiffs' Motion for Default Judgment.

3. I have personal knowledge of the following facts and, if called upon to testify, am
competent to do so.

4. In this action seeking to compel an audit of defendants and to collect unpaid
employer contributions owed to the plaintiffs' trust funds, the default of defendants has already
been entered.

5. At the case management conference of September 14, the court set a deadline of
October 5, 2006, for plaintiffs to file a motion for default judgment.

6. I have just learned from both plaintiffs and defendants that they have agreed to
have an audit of defendants' business records on October 5, 2006, for the purpose of determining
whether defendants are owing any unpaid employer contributions.

7. Since the first objective of this lawsuit, to obtain an audit of defendants' business
records, will be attained by this agreed audit, and the amount of any subsequent claim for unpaid
contributions will depend on the outcome of this audit, plaintiffs request that the deadline for filing

1 a motion for default judgment be continued to December 7, 2006. This should allow the parties to
2 finish the audit, review the results, and possibly reach a settlement of the entire action.

3 8. If the audit finds no contributions owing, the action may be dismissed. If
4 substantial contributions are found owing, it may be necessary to file and serve an amended
5 complaint.

6 9. A continuation of the deadline for filing of such further pleading would save
7 litigation costs for the parties and conserve judicial resources. It should also facilitate friendly
8 relations between the plaintiff trust funds and defendant.

9 I declare under penalty of perjury of the laws of the State of California that the foregoing is
10 true and correct and that this declaration was executed on September 19, 2006, at San Francisco,
11 California.

By: /s/ *Bruce K. Leigh*

Bruce K. Leigh
Attorneys For Plaintiffs

PROPOSED AMENDED CASE MANAGEMENT ORDER

Having considered plaintiffs' case management statement filed herein on August 31, 2006,
17 and plaintiffs' motion and declaration for amendment of the case management order of September
18 14, 2006, the Court takes notice that plaintiffs and defendants have agreed to hold an audit of
19 defendants' business records on October 5, 2006. Accordingly, the Court orders that Plaintiffs
20 shall file their motion for default judgment, voluntary dismissal, or amended complaint herein no
21 later than ~~December 7, 2006~~. November 2, 2006.

DATED: September 20 , 2006

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PROOF OF SERVICE

CASE NAME: *Board of Trustees for Operating Engineers Health and Welfare Trust Fund v. Mora Construction Inc.*

CASE NUMBER: United States District Court, Northern District of California
Case No. 3:06cv3641 (WHA)

I, Peggy Sanchez, declare as follows:

I am a citizen of the United States of America; I am a resident of, or employed in, the City and County of San Francisco, California; I am over the age of eighteen years and not a party to the within cause; my business address is 101 New Montgomery Street, Fifth Floor, San Francisco, California 94105.

On the date below, I served the following document described as

1) PLAINTIFFS' MOTION FOR CONTINUANCE OF CASE MANAGEMENT ORDER, DECLARATION IN SUPPORT THEREOF, AND PROPOSED AMENDED CASE MANAGEMENT ORDER

on the parties involved addressed as follows:

**Mora Construction, Inc.
26738 Dutcher Creek Road
Cloverdale, California 95425**

**Mark C. Mora
1350 Bennet Valley Road
Santa Rosa, California 95402**

BY MAIL with postage thereon fully prepaid in the designated area for outgoing mail. I am readily familiar with STANTON, KAY & WATSON LLP's practice of collection and processing correspondence whereby mail is sealed, given the appropriate postage and placed in a designated mail collection area. Each day's mail is collected and deposited with the United States Postal Service after the close of each day's business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on **September 19, 2006**, at San Francisco, California.

/s/ Peggy Sanchez

Peggy Sanchez